IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

Crl.MC.No. 1674 of 2007()

CRIME NO.145/2007 OF RANNY POLICE STATION

PETITIONER:

ANIL KUMAR.V.R.
VALUPARAMBIL HOUSE,
PULLOOPRAM P.O., VARAVOOR,
ANGADI, RANNY.

BY ADV. SRI.S.SANTOSH KUMAR (PERUNAD)

RESPONDENT:

THE S.I. OF POLICE, RANNY

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1674 of 2007

Dated this the 24th day of May 2007

O R D E R

The petitioner's lorry has been seized on the allegation that it was involved in illicit transportation of sand. According to the petitioner, his vehicle was not so involved in any illicit transportation of sand. A crime has been registered. It is submitted that the seizure has not been reported to the learned Magistrate.

2. The petitioner is aware of the law. What he should do is to file an application under Section 457 Cr.P.C for release of the vehicle to him. If seizure of the vehicle is confirmed and reported in response to such application under Section 457 Cr.P.C, the learned Magistrate has the jurisdictional competence under Section 457 Cr.P.C to pass appropriate orders. But the petitioner has not filed any such application. He has come directly to this court complaining about the course adopted by the police of not reporting seizure to the learned Magistrate. Why did he not apply for release under Section 457 Cr.P.C? The

only explanation is that even if the petition is filed, the learned Magistrate is likely to post the case to a distant date thus effectively frustrating the remedy available to the petitioner.

3. I find no reason to invoke the powers under Section 482 Cr.P.C. The petitioner can apply for release of the vehicle under Section 457 Cr.P.C before the learned Magistrate. Appropriate orders must be passed by the learned Magistrate. Needless to say, unnecessary protraction of the proceedings must be avoided and it is not necessary to ritualistically post the case to any distant date by the learned Magistrate. A sense expedition must inform the learned Magistrate in view of the fact that the vehicle is exposed to sun and rain. With the above observation, this Criminal Miscellaneous Case is dismissed.

Hand over copy of this order to the learned counsel for the petitioner for production before the learned Magistrate today itself.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF APRIL 2007